

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of VANESSA J. WILSON and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, Northport, NY

*Docket No. 01-1689; Submitted on the Record;
Issued March 27, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has more than a six percent permanent impairment to the right hand or two percent to the left hand.

In the present case, the Office of Workers' Compensation Programs accepted that appellant sustained a right thumb hypertension injury and left thumb tenosynovitis in the performance of duty. By decision dated November 2, 2000, the Office issued a schedule award for a six percent permanent impairment to the right hand, and two percent permanent impairment to the left hand. In a decision dated April 9, 2001, an Office hearing representative affirmed the schedule award decision.

The Board finds that the case is not in posture for decision.

The schedule award provision of the Federal Employees' Compensation Act¹ and its implementing regulation² set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The American Medical Association, *Guides to the Evaluation of Permanent Impairment* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.

In a report dated May 30, 2000, Dr. Salvatore Inserra, an orthopedic surgeon, provided range of motion results for both thumbs, and he opined that appellant had a 30 percent loss of

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404.

function for the right thumb, a 2 percent for the left. Dr. Inserra did not refer to the A.M.A., *Guides* or attempt to explain how he calculated the degree of permanent impairment.

In a report dated October 27, 2000, an Office medical adviser attempted to apply the findings of Dr. Inserra to the A.M.A., *Guides*. With respect to range of motion, the medical adviser indicated that for the right thumb interphalangeal joint (IP), appellant had a one percent thumb impairment based on Figure 10.³ Dr. Inserra reported a right thumb IP joint range of motion from 0 to 60 degrees; under Figure 10, 60 degrees of flexion is a 1 percent thumb impairment. The Board notes that according to Figure 10, zero degrees of extension also results in an additional one percent impairment. The medical adviser does not explain why the application of Figure 10 to Dr. Inserra's findings resulted in only one percent impairment. Moreover, the medical adviser found a 10 percent thumb impairment for loss of grip strength, although he noted "no values given by examiner so no specific tables could be used."⁴ An impairment based on loss of grip strength under the *Guides* requires specific measurements with a Jamar dynamometer and application of appropriate tables.⁵ It is evident that the medical adviser did not have a complete description of the impairment and did not calculate the impairment in accord with the A.M.A., *Guides*. The Office's procedures clearly indicate that a schedule award must be based on medical evidence that includes a detailed description of the impairment.⁶

Accordingly, the case will be remanded to the Office for further development of the evidence. The Office should secure medical evidence that provides a detailed description of the permanent impairment, and properly applies the findings to the A.M.A., *Guides* in determining the degree of permanent impairment. After such further development as the Office deems necessary, it should issue an appropriate decision.

³ A.M.A., *Guides* (4th ed. 1995), 26, Figure 10.

⁴ Dr. Inserra reported decreased grip strength right thumb, approximately 50 percent, due to pain and atrophy. No further description of a grip strength impairment was provided.

⁵ A.M.A., *Guides*, 64-65. The A.M.A., *Guides* indicate that loss of grip strength is generally used only in rare cases when the impairment has not otherwise adequately been considered. The medical adviser did not discuss impairment based on pain or motor deficit or explain why loss of grip strength best represented appellant's impairment.

⁶ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6(c) (March 1995).

The decisions of the Office of Workers' Compensation Programs dated April 9, 2001 and November 2, 2000 are set aside and the case remanded for further action consistent with this decision of the Board.

Dated, Washington, DC
March 27, 2002

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member